

IV. Rejection Under 35 U.S.C. § 102

Claims 1 and 4 have been rejected under 35 U.S.C. § 102(b) as being anticipated by either U.S. Patent No. 4,535,935 to Spector or U.S. Patent No. 6,705,541 to Schuehrer et al. (“Schuehrer”).

Applicant respectfully traverses the above rejection. The present invention, as disclosed in claim 1, provides a fragrance-containing ornament which emits a fragrance when the user desires fragrance to be released and squeezes or pulls on the ornament. Fragrance is not released at any other time. Claim 1 recites “fragrance release pores holding a fragrance inside while the container is not under the stress of being stretched and release fragrance when a shape of said fragrance container is being changed by stretching.”

In contrast, Spector’s fragrance continuously escapes from the fragrance-containing ornament through the pores of the ornament’s fabric sleeve. Spector states that the

sachet includes a permeable fabric sleeve having stuffed therein a flexible core of absorbent material having wicking properties. ...The core is initially impregnated with a charge of the same liquid fragrance which, as it evaporates, is diffused through the sleeve into the closet or drawer to scent the clothing housed therein.

Spector, column 1, line 68 to column 2, line 14. Spector’s core is impregnated by squeezing an attached bottle to discharge fragrance into the core material. Once impregnated, the core material continuously releases fragrance. Thus, Spector’s sachet releases fragrance when it is not being stretched or deformed. Applicant submits that Spector cannot anticipate the claims and the rejection should be withdrawn.

The Examiner states that both above-named references teach the concept of releasing fragrance vapor through pores and that as such it would be obvious to one of ordinary skill in the art to change the size of the pores depending on the desired diffusion rate. The Examiner further contends that the above references teach that the fragrance may be decorative and of any desired shape and that the fragrance containing material may be injected with a liquid fragrance. Applicant respectfully traverses the stated rejections.

Applicant submits that the method of fragrance release based on squeezing or pulling on the fragrant ornament to release the fragrance, as described in claim 1 of the present application, is nonobvious in view of both Spector and Schuehrer. Neither reference cited against the current application either teaches or motivates one of ordinary skill in the art to create a device with changing pore sizes in the presence of an external influence, such as simply pulling or squeezing. This changing pore size creates the effect of opening and closing the pores. The pores cited in Spector are never able to close, while the release of fragrance into the porous vessel in Schuehrer only occurs upon the release of a tab. Furthermore, the pores in Schuehrer maintain the same diameter at all times. The present invention greatly simplifies the fragrance release mechanisms present in the prior art. All objectionable claims are dependent on claim 1 and thus include its unique advantages over the referenced prior art. In light of these differences, Applicant respectfully submits that claims 2, 3, and 5-13 are in condition for allowance.

